

REMARKS

Claims 77-88 remain pending. Favorable reconsideration is respectfully requested.

The present invention relates to a cosmetic or care product system, comprising:

a skin cosmetic or skin care product; and

a test device packaged within the product system for evaluating the effect of the skin cosmetic or skin care product on the skin over a period of time after the skin cosmetic or skin care product has been applied to the skin, and where the test device has a substrate comprising an adhesive surface,

where the test device does not contain the skin cosmetic or skin care product.

See Claim 77.

The rejection of the claims over Bouyer (FR 2,063,743) is respectfully traversed. The reference fails to disclose the claimed cosmetic or care product system.

Bouyer discloses a process for the diagnosis of skin types. In the process described by the reference, an adhesive strip is applied to the skin of a test subject, and then the strip is removed. The removed strip carries away surface elements of the epidermis which remain attached to the strip. Those surface elements are then analyzed to diagnose the subject's skin type. See page 1 of the English translation of record. Once the subject's skin type has been identified, beauty products may be prescribed. See page 2 of the English translation of record.

However, such beauty products are not part of a system in combination with a test device as claimed. In the process described by Bouyer, the test strip and the beauty product are separate. In fact, the reference states at page 2 that

The process and the devices which are the subject of the invention may be used in all cases in which it may be useful to determine the skin type and, in particular, for the prescription, sale or advertising of beauty products. They may be especially

useful in the case of sale of these products by mail. [Emphasis added.]

This passage makes it clear that beauty products are not part of a system comprising a skin cosmetic or skin care product and a test device packaged within the product system. Rather, in Bouyer, the adhesive used to diagnose skin type and then recommend beauty products for subsequent purchase. In fact, the beauty products are sold to the subject by mail. Certainly, Bouyer fails to describe the combination of a skin cosmetic or skin care product and a test device together as claimed.

The rejection of the claims under 35 U.S.C. 102(e) over Slavtcheff et al. '235 is respectfully traversed. Slavtcheff et al. '235 is not available as prior art against the present application.

The present application claims benefit to international application serial No. PCT/FR02/00730 filed on February 28, 2002. The international application claims priority to French application No. 01 02888, filed on March 2, 2001 (hereinafter referred to as "the French priority application"). For the Examiner's convenience, a copy of a certified English translation of the French priority application and the drawings from that application are submitted herewith.

Page 4 of the French priority application describes a process for determining the efficacy of a cosmetic or care product, in particular an anti-wrinkle product, by:

- a) applying a substrate provided with an adhesive surface onto a test zone of the skin,
- b) removing the substrate,
- c) applying on the test zone a product having an action on the wrinkles,
- d) applying a new substrate provided with an adhesive surface onto the test zone and removing the substrate,

e) comparing the images formed on the substrate before and after application of the product.

See the middle of page 4 of the French priority application.

A product system for implementing that process is shown in Figure 9 of the French priority application. Figure 9 depicts a “kit containing an anti-wrinkle product, a plurality of adhesive substrates and a package on which is printed an atlas. See the English translation at page 5, middle. See also the description of Figure 9 at page 8 of the French priority application:

One or more substrates can be sold with an anti-wrinkle product 5 and its package 6 in the form of a kit.

In this case, package 6 advantageously contains a set for reference images 21 forming a self-evaluation atlas, as well as dark zone 23 to facilitate observation of the image formed on adhesive substrate 1.

Of course, the invention is not limited to the examples given in the foregoing.

Accordingly, the test device does not contain the test device does not contain the skin cosmetic or skin care product.

In view of the foregoing, the claimed product is described in the French provisional application.

Slavtcheff et al. ‘235 published on December 5, 2002. The application which issued as the Slavtcheff et al. ‘235 publication was filed on October 21, 2001 and claims priority to a provisional application filed on May 30, 2001.

Since (1) the March 2, 2001 filing date of the French priority application is prior to the May 30, 2001 filing date of the Slavtcheff et al. provisional application and (2) the claims of the present application are supported by the French priority application, Slavtcheff et al. ‘235 is not available as prior art against the present application. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of the claims under 35 U.S.C. §112, first paragraph, written description, is respectfully traversed. The specification describes the claimed product system.

Paragraph [0017] of the specification reads as follows:

Another object of the invention is a process for determining the efficacy of a cosmetic or care product, for example an anti-wrinkle product. The process can include applying a substrate with an adhesive surface onto a test zone of the skin. Thereafter, the substrate is removed and a product having an action on the wrinkles is applied on the test zone. A new substrate with an adhesive surface can then be applied onto the test zone. This new substrate is removed and the images formed on the substrates before and after application of the product are compared in order to deduce useful information about the efficacy of the product. Each image can result from the modification of the appearance of the adhesive surface, such a modification occurring where the adhesive surface was in effective contact with the skin, the adhesive surface not having been in appreciable contact with the sunken zones of the skin, such as the wrinkles or lines. [Emphasis added.]

In this embodiment, the test device does not contain the skin cosmetic or skin care product.

Paragraph [0027] of the specification reads as follows:

Fig. 9 illustrates a kit including a product container, a plurality of adhesive substrates and a package on which there are printed reference images, and...

Paragraph [0044] of the specification reads as follows:

As shown in Fig. 9, one or more substrates can be sold with a skin product enclosed in a container 5 and its package 6 in the form of a kit. The substrates 1 and the container 5 are adapted to fit inside the package 6. The product can be, for example, an anti-wrinkle product. In this embodiment, the package 6 can include a set of reference images 21 so as to provide a self-evaluation atlas. The package 6 can also include a dark zone 23 to facilitate observation of the image formed on adhesive substrate 1. The references images 21 can be displayed on an outside surface of the package 6 (as shown in Fig. 9), or can be printed on a support that fits inside the package 6. For example, the support can be made of paper, cardboard, plastic, or another media. [Emphasis added.]

In this embodiment, the test device does not contain the skin cosmetic or skin care product.

In view of the foregoing, the specification and Figure 9 of the application describe a skin cosmetic or skin care product and a test device packaged within the product system for evaluating the effect of the skin cosmetic or skin care product on the skin, where the test device does not contain the skin cosmetic or skin care product, as claimed. Accordingly, withdrawal of this ground of rejection is respectfully requested.

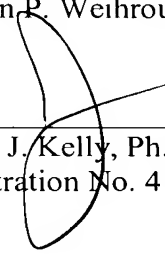
Applicants submit that the present application is in condition for allowance. Early notice to this effect is earnestly solicited.

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Steven P. Weihrouch



James J. Kelly, Ph.D.
Registration No. 41,504